

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Crim. Action No.: 1:20CR54  
(Judge Kleeh)

CARRIE ELIZABETH FOX,

Defendant.

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION  
CONCERNING PLEA OF GUILTY IN FELONY CASE [DKT. NO. 14],  
ACCEPTING GUILTY PLEA, AND SCHEDULING SENTENCING HEARING

On October 8, 2020, the Defendant, Carrie Elizabeth Fox ("Fox"), by counsel, Brenden S. Leary, appeared before United States Magistrate Judge Michael J. Aloï and moved for permission to enter a plea of **GUILTY** to Count One of the Information. Fox stated that she understood that the magistrate judge is not a United States District Judge, and Fox consented to pleading before the magistrate judge. Fox further represented to the Court, under oath, that she understood her voluntary waiver of her right to proceed by indictment and agreed to voluntarily proceed by information. United States Judge Michael J. Aloï ordered the written waiver to indictment filed and made part of the record.

This Court referred Fox's plea of guilty to the magistrate judge for the purpose of administering the allocution, pursuant to Federal Rule of Criminal Procedure 11, making a finding as to

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**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION  
CONCERNING PLEA OF GUILTY IN FELONY CASE (DKT. NO. 134),  
ACCEPTING GUILTY PLEA, AND SCHEDULING SENTENCING sheARING**

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whether the plea was knowingly and voluntarily entered, and recommending to this Court whether the plea should be accepted.

Based upon Fox's statements during the plea hearing and the Government's proffer establishing that an independent factual basis for the plea existed, the magistrate judge found that Fox was competent to enter a plea, that the plea was freely and voluntarily given, that she was aware of the nature of the charges against her and the consequences of her plea, and that a factual basis existed for the tendered plea. The magistrate judge issued a *Report and Recommendation Concerning Plea of Guilty in Felony Case* ("R&R") [Dkt. No. 14] finding a factual basis for the plea and recommending that this Court accept Fox's plea of guilty to Count One of the Information.

The magistrate judge also directed the parties to file any written objections to the R&R within fourteen (14) days after service of the R&R. He further advised that failure to file objections would result in a waiver of the right to appeal from a judgment of this Court based on the R&R. Neither Fox nor the Government filed objections to the R&R.

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ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION  
CONCERNING PLEA OF GUILTY IN FELONY CASE [DKT. NO. 14],  
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Accordingly, this Court **ADOPTS** the magistrate judge's R&R [Dkt. No. 14], provisionally **ACCEPTS** Fox's guilty plea, and **ADJUDGES** her **GUILTY** of the crime charged in Count One of the Information.

Pursuant to Fed. R. Crim. P. 11(c)(3) and U.S.S.G. § 6B1.1(c), the Court **DEFERS** acceptance of the proposed plea agreement until it has received and reviewed the presentence investigation report prepared in this matter.

Pursuant to U.S.S.G. § 6A1 et seq., the Court **ORDERS** the following:

1. The Probation Officer shall undertake a presentence investigation of Fox, and prepare a presentence investigation report for the Court;

2. The Government and Fox shall each provide their narrative descriptions of the offense to the Probation Officer by **November 12, 2020**;

3. The presentence investigation report shall be disclosed to Fox, her counsel, and the Government on or before **January 11, 2021**; however, the Probation Officer shall not disclose any sentencing recommendations made pursuant to Fed. R. Crim. P. 32(e)(3);

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CONCERNING PLEA OF GUILTY IN FELONY CASE [DKT. NO. 14],  
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4. Counsel may file written objections to the presentence investigation report on or before **January 25, 2021**;

5. The Office of Probation shall submit the presentence investigation report with addendum to the Court on or before **February 8, 2021**; and

6. Counsel may file any written sentencing memorandum or statements and motions for departure from the Sentencing Guidelines, including the factual basis for the same, on or before **February 22, 2021**.

The magistrate judge released Fox on the terms of the Order Setting Conditions of Release. [Dkt. No. 13].

The Court will conduct the **Sentencing hearing** for Fox on **March 1, 2021**, at **10:30 A.M.**, at the **Clarksburg, West Virginia** point of holding court. If counsel anticipates having multiple witnesses or an otherwise lengthy sentencing hearing, please notify the Judge's chamber staff so that an adequate amount of time can be scheduled.

It is so **ORDERED**.

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ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION  
CONCERNING PLEA OF GUILTY IN FELONY CASE [DKT. NO. 14],  
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The Clerk is directed to transmit copies of this Order to  
counsel of record and all appropriate agencies.

DATED: November 2, 2020

/s/ Thomas S. Kleeh

THOMAS S. KLEEH

UNITED STATES DISTRICT JUDGE